

REMARKS

Claims 1-13, 15-17, 19, 20, 23, and 24 are pending in this application.

Response to Rejections under 35 USC § 102(e)

Claim 1

Claim 1 is directed to a disposable absorbent article having an area which is visible when the article is worn. A color gradation in this area provides a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry. A visible element, separate from the color gradation, is disposed in the area at a location where the coloration of the color gradation is of lower intensity or absent such that the visible element remains visible and is not obscured by the color gradation.

The essence of claim 1 is that when the absorbent article is dry, the color gradation over the area is visible, i.e., both a higher color intensity and a lower color intensity of the color gradation are visible over the area when the article is dry such as is illustrated in Figs. 1 and 2 of the present application (see reference number 90).

Claim 1 is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 6,297,424 (Olson et al.) in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article having a color gradation that provides a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry, and a visible element separate from the color gradation.

In particular, Olson et al. disclose an absorbent article, such as a training pant, configured to provide an indication of wetness. The absorbent article includes a permanent character graphic (70), e.g., a dog, and several active object graphics (78), e.g., fish. Upon contact with urine (i.e., upon wetting of the article), the active graphics (78) either appear, disappear, or change to a brighter or darker color, thereby indicating wetness. The outer cover of the article has a white appearance (Column 9, lines 35-42). The cover includes a simulated elastic waistband (80), a simulated fly opening (82), and simulated elastic leg bands (84).

At page 2 of the final Office action, the Office characterizes the fish (78) of the Olson et al. article as being analogous to the recited color gradation that provides a coloration which varies in intensity over the area from a high intensity of color to a lower intensity of color. As best understood from the Response to Arguments (page 6) of the final Office action, the Office's position is that the fish (78), which Olson et al. teach is an active graphic, has a higher intensity when the article is dry (i.e., before the graphic fades) and a lower intensity when the article is wet (i.e., when the graphic fades). Alternatively, the fish (78) of Olson et al. can either disappear, fade, or appear over time when exposed to the environment but not exposed to urine. In other words, the fish (78) is capable of appearing, fading, or disappearing based on some interaction by the wearer (i.e., urination) or the surrounding environment.

The fish (78) of Olson et al. are clearly not analogous to the recited color gradation. Rather, only one color intensity appears over the area defined by the fish. Instead, the fish (78) of Olson et al. are more properly characterized as corresponding to the recited visible element. As shown in Fig.

1 of applicants' specification, the color gradation (90) is an area wherein the color intensity incrementally changes from an area of higher intensity to an area of lower intensity, presenting an entire area of which a gradation is visible (i.e., more than one color intensity is visible over the area). The fish of Olson et al., at any given time, do not have areas of incrementally varying color intensity. Rather, at any given time, the color intensity of the fish is generally uniform even if the color intensity has changed from its initial intensity.

Moreover, applicants' specification discloses fish (see reference number 78 of Fig. 1) that are substantially the same as those shown in Olson et al. In other words, the fish (78) of Olson et al. correspond to the fish (78) disclosed by the applicants. Applicants' specification makes it clear that the fish disclosed therein correspond to the claimed visible element, and not the claimed color gradation. Likewise, Olson et al.'s fish correspond to the claimed visible element and not the claimed color gradation. Thus, characterization of the fish of Olson et al. as corresponding to the recited color gradation is not a reasonable interpretation of the claims when considered in view of applicants' specification.

Accordingly, Olson et al. fail to disclose, nor even suggest, a color gradation which provides a coloration that varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry as recited in claim 1.

For the above reasons, claim 1 is submitted to be unanticipated by and patentable over Olson et al.

Claims 2-13, 19 and 20 depend directly or indirectly from claim 1 and are submitted to be patentable over the references of record for at least the same reasons as claim 1.

Claim 4

Claim 4 depends from claim 1 and further recites that the visible element is a wetness indicator (i.e., capable of indicating the article is wet). In the final Office action, at page 6, last paragraph, the Office characterizes the permanent graphic of Olson et al. (i.e., the dog graphic (70)) as the visible element recited in claim 1. However, Olson et al. clearly teach that the dog graphic (70) is a permanent character graphic (see column 13, lines 16-20), which is defined at column 3, lines 24-29 as a graphic that does not substantially change its degree of visibility when the absorbent article is insulted. Thus, there is no way of using the permanent graphic (70) as a wetness indicator to indicate that the article has been wetted.

Moreover, applicants' specification discloses substantially the same permanent graphic as Olson et al. See applicants' dog illustrated in Fig. 1 and referred to as 70 in comparison to Olson et al.'s dog illustrated in Fig. 1 therein and also referred to as 70. Applicants' specification makes it abundantly clear that Applicants' permanent graphic is different than the wetness indicator, which is defined by the active graphic (e.g., fish 78 of Fig. 1). Thus, the Office's characterization of the permanent graphic of Olson et al. being analogous to the recited wetness indicator is not a reasonable interpretation of the claims in view of applicants' specification.

Accordingly, Olson et al. fail to teach or suggest that the visible element (i.e., permanent graphic 70) is a wetness indicator as recited in claim 4.

For these additional reasons, claim 4 is further submitted to be patentable over the references of record.

Claim 20

Claim 20 depends indirectly from claim 1 and further recites that the color gradation is printed on the article with a permanent ink. The term permanent is defined in the present application at page 3, lines 22-25 as meaning that the graphic does not substantially change its degree of visibility when the absorbent article is insulted. That is, the color gradation, printed in permanent ink, will not change its degree of visibility when the absorbent article is insulted.

While Olson et al. do teach the use of permanent ink in reference to graphic elements such as the dog (70) (characterized by the Office as the visible element recited in claim 1), Olson et al. fail to disclose a color gradation that is printed with permanent ink.

In particular, the Office opines on page 7, first full paragraph, that the permanent ink of the fish (78) can be fading graphics that simply change color to blend in with the background. As mentioned above, the term permanent requires that the degree of visibility is not substantially changed when the absorbent article is insulted. Clearly, the degree of visibility of the fading graphic is diminished by blending into the background of the absorbent article when the article of Olson et al. is insulted.

As such, the fish (78) cannot be said to be printed with permanent ink as recited in claim 20.

Claim 15

Claim 15 is directed to a disposable absorbent pant that recites, among other elements, a color gradation providing a coloration which varies from a higher intensity of color in the vicinity of the waist region to a lower intensity of color toward the crotch region when the pant is dry.

Claim 15 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al. for at least the same reasons as claim 1. That is, whether considered alone or in combination the references fail to disclose or suggest the recited color gradation in an area that provides a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry, and a visible element separate from the color gradation.

In addition, claim 15 recites that the coloration provided by the color gradation varies from a higher intensity of color "in the vicinity of the waist region" to a lower intensity of color "toward the crotch region" of the pant. Again the Office characterizes the fading fish (78) of Olson et al. as the recited color gradation. However, the location of the fading fish (78) does not change upon wetting of the pant of Olson et al. That is, the higher intensity (non-faded graphic) area is in precisely the same location as the lower intensity (faded graphic) area. There is no direction at all associated with the variation in color intensity provided by the fading fish (78) of Olson et al. As such, Olson et al. clearly further fail to teach or suggest the color intensity varying from the waist region toward the crotch region of the article as recited in claim 15.

On page 7, second full paragraph of the final Office action, the Office takes the position that the permanent graphic (e.g., the dog 70) and an area of the article having no graphic anticipates claim 15. However, claim 15 recites that a color gradation providing a coloration which varies from a higher intensity of color in the vicinity of the waist region to a lower intensity of color toward the crotch region. In other words, the color gradation provides an area of

incremental change from a higher intensity area to a lower intensity area. The intensity change from the permanent graphic to a graphic free portion of the article is abrupt and therefore is not a color gradation. Color gradation requires incremental change in color intensity and not an abrupt change as opined by the Office.

For the above reasons, claim 15 is submitted to be unanticipated by and patentable over Olson et al.

Claims 16 and 17 depend from claim 15 and are submitted to be patentable over the references of record for the same reasons as claim 15.

Claim 23

Claim 23 is directed to a disposable absorbent article having an area which is visible when the article is worn, a permanent graphic comprising a color gradation in said area providing a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color, and a visible element separate from said permanent graphic and disposed in said area at a location where the coloration of said color gradation is of lower intensity or absent such that the visible element remains visible and is not obscured by the color gradation.

The essence of claim 23 is the provision of a permanent graphic that comprises a color gradation on a visible area of the article, with the coloration gradation providing a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color. The term "permanent graphic" is defined in the present application (and the same definition is used in Olson et al.) at page 3, lines 22-25 as meaning that the graphic does not substantially change its degree of visibility when the absorbent article is

insulted. In other words, the color gradation does not change in visibility when the absorbent article becomes wet.

Claim 23 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al., in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article comprising a permanent graphic having the recited color gradation.

Olson et al., as discussed above, disclose that the fading fish (78) substantially changes its degree of visibility upon becoming wet (or staying dry for a period of time). The Office action characterizes the change of the fading fish (78) from its first state (non-faded graphic) to its second state (faded graphic) as a color gradation. However, Olson et al. clearly teach that the fading fish (78) is an active graphic that changes visibility upon becoming wet (or staying dry), and not a permanent graphic that does not change visibility upon becoming wet as recited in claim 23. Accordingly, Olson et al. fail to disclose or even suggest a permanent graphic that has a color gradation.

For these reasons, claim 23 is submitted to be patentable over the references of record.

Claim 24

Claim 24 is directed to a disposable absorbent article comprising a color gradation that is visible when the article is worn. The color gradation comprises a coloration that varies in intensity from an area of higher intensity of color to a separate area of lower intensity of color. A visible element separate from the color gradation is disposed at a location where the coloration of the color gradation is of lower intensity or absent such that the visible element remains

visible and is not obscured by the color gradation. Claim 24 thus makes it clear that with respect to the recited color gradation, the area of lower color intensity is separate from (e.g., adjacent to so as to provide the recited gradation) the area of higher color intensity.

Claim 24 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al., in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article comprising a color gradation having an area of higher color intensity and a separate area of lower color intensity.

Olson et al., as discussed above, disclose that the fading fish (78) changes visibility upon becoming wet (or staying dry for a period of time). The Office action characterizes the change of the fading fish (78) from its first state (non-faded graphic) to its second state (faded graphic) as a color gradation. However, the location of the fading fish (78) does not vary. As such, the area defined by the asserted higher color intensity (i.e., the fish in its non-faded condition) is exactly the same as the area defined by the asserted lower color intensity (i.e., the fish in its faded condition). Accordingly, Olson et al. fail to disclose, or even suggest, the color gradation having an area of lower color intensity that is separate from the area of higher color intensity.

For these reasons, claim 24 is submitted to be patentable over the references of record.

CONCLUSION

In view of the above, applicants respectfully request favorable consideration and allowance of claims 1-13, 15-17, 19, 20, 23 and 24.

Respectfully submitted,

/Richard L. Bridge/

Richard L. Bridge, Reg. No. 40,529
SENNIGER, POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

RLB/PEB/bcw